

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 27, 2007 (“Office Action”). At the time of the Office Action, Claims 1-21 were pending in the application with claims 3 and 18-21 being withdrawn from consideration. Applicants acknowledge with appreciation that the objections to the Abstract, Specification, Drawings, and Claims have been withdrawn, as indicated on page 2 of the Office Action. Applicants also acknowledge with appreciation that the rejections under 35 U.S.C. § 112 have been withdrawn, as indicated on page 2 of the Office Action.

In the present amendment, Applicants have amended independent claim 1 and dependent claim 2. No new matter has been added. Applicants respectfully submit that all claims are now in allowable form and request allowance of these claims.

Section 102 and 103 Rejections

In the Office Action, claims 1, 2, 9-11 and 14-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 3,728,895 to Shaw (“Shaw”). Claims 4 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shaw in view of U.S. Pat. No. 6,591,690 to Crockford (“Crockford”). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shaw. Claims 7, 8, 12, 13 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shaw in view of U.S. Pat. No. 4,483,197 to Kellner (“Kellner”). Applicants respectfully traverse the rejections.

In an effort to advance this case to allowance, Applicants briefly discuss the principal reference, Shaw. Shaw is directed to a high speed triaxial compression test apparatus in the form of a rectangular box with pressurizing modules 22 or sidewalls (See Figures 1-3; Col. 3, lines 29-35). A *pressurizing fluid* is supplied to the modules through ports 42 to “urge the respective diaphragms 34 *inwardly* against the test sample” (see Col. 3, lines 43-45) such that “the sample is compressed between a pair of opposing walls.” (Col. 3, line 46). Applicants respectfully submit that Shaw – alone or in combination with the cited art of record - does not disclose or suggest a soil test apparatus to test products in subterranean soil installations, wherein the apparatus includes, among other things, a container having a base, sides and a top opening “wherein only the top opening is adapted directly or indirectly to receive a load” a “load means for applying a vertical pressure to soil in the container via the top opening such that the vertical pressure compresses the soil and resolves to form a horizontal pressure” and “wherein at least

one of said sides is configured to move outwardly under said horizontal pressure” as recited in Applicants’ present claim 1 and the claims depending therefrom.

Applicants respectfully submit that Applicants’ present claims are patentable over the art of record and respectfully request that the rejections under Section 102 and 103 be withdrawn.

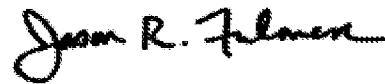
CONCLUSION

Applicants have made a diligent effort to advance the prosecution of this application by complying with the requirements of the Office Action. Favorable consideration and an early allowance of the pending claims is respectfully requested. Applicants hereby authorize the Commissioner to charge any fees, other than the issue fee, that may be required by this paper to Deposit Account 07-0153.

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Respectfully submitted,

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